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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,727	07/03/2003	Thomas C. McCoy	20326.002US	7280

22870 7590 11/24/2006

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/613,727

Applicant(s)

MCCOY, THOMAS C.

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 43, 44, 46, 48, 49, 51 and 53-67 is/are pending in the application.
- 4a) Of the above claim(s) 53-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 43, 44, 46, 48, 49 and 51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Election/Restrictions***

Claims 53-67 were directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: none of the original claims included the limitation of selecting a template.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 53-67 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. The requirement is FINAL.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8,43,44,46,48,49,51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. in view of Britten et al. and REALTOR.COM.

Miller et al. disclose a method for the creation of informational materials comprising the steps of: a. providing for the digital input of data regarding selected specifics related to an item-and/or an-event (see fig. 71) ,b. providing for a digital template for organizing the data regarding specifics (see Fig. 2 and discussion of template in which digital data is stored e.g. digital template in cols.

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9-11, "each location and industry template is constructed by an analyst" and template is set up by key words to which are matched to data which populated given areas of the template), entering the data regarding specifics into a digital computational and storage device (see col. 36 lines 19-33, and cols. 9-10 for data entered into the template in digital form according to key words in template which match data cols. 9 line 60 et seq.); d. organizing the data regarding specifics into the digital template (the matching process by virtue of the key word structure organizes specifics data from documents to "key words" see fig 2), and (see Fig 4 for table which has been reduced to numeric codes which becomes an electronic version providing for the digital input of data regarding selected specifics wherein the informational materials comprises an electronic version of the data regarding specifics combined with the digital template).

However, Miler et al. do not appear to disclose: e. providing for the creation of the informational materials based on the data regarding specifics organized into the digital template and wherein the digital template is used to generate an electronic promotional advertisement, e.g. flyer, capable of being viewed over the a computer network. But, Britten et al. disclose the using a template to generate a network transmittable flyer with advertising information (see col. 6 lines 14-16 digital media format). The user can use the template to customized the flyer (see col. 3, lines 41 et seq.) to incorporate data necessary for the promotion of the product being sold. It would be an obvious expedient in the art to modify Miller et al. to include the electronic informational flyer ( flyer adapted for digital media) of Britten et al. as the product of the information

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collected and organized in the template of Miller et al., and place it onto the internet as taught by Realtor.com, the motivation being the ease of formatting information using the organization of the template and the accessibility using the internet. Whether the flyer is directed a real estate market and or event is not deemed to be a patentable distinction given that there is no step in the claims which ties the real estate feature with the template which could not otherwise be accomplished for other sales such as vehicles or boats.

RE claims 2, 5, 44 and 49: the informational materials in Miller et al. comprises a plurality of discrete sections as set forth by segments entitled INDUSTRM and LOCATION which is read as a section devoted to information regarding a tangible item or event (industry is an event in an economy) and at least a second of which is devoted to information regarding an organizational entity (location is an organizational attribute). Likewise the flyer of Zorn also has disc116, 144,103,118 all directed to attributes of the product sold. It would be obvious and motivated for/by the reasons set forth above to use such sectioning in Miller et al.

Re claim 8: see (see Miller et al. col. 36 lines, 19-33 for data entered into computer system e.g. digital form).

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RE claims 46, 51: the table of Fig 2 in Miller et al. is network based and viewable thereon, as is the data transferred. The reasons set forth above for modifying Miller et al. are repeated herein.

Re claims 3,4,6 and 7: Official Notice is taken with respect to data collection in the fields of real property and the organizational entity, services in the real estate sales and leasing field including sales or easing of real property and chattels; and organizational entities providing services in the real estate sales and leasing fields because such data collection is known to property management companies. The notice having not been traversed is made final (MPEP 2144.03).

Applicant's arguments filed 8/23/06 have been fully considered but they are not persuasive. Applicant argues:

1. : 'the claims ...specifically call for producing a flyer related to real property'. Applicant is in essence arguing content of the information printed or published on the flyer. However the subject matter on which the flyer is based is deemed to be non-functional descriptive material. No patentable distinction can be given to the end result which is the printed material printed on the informational flyer. The examiner has provided the REALTOR.COM reference as the example of digital content provided over a network, but could have done so e.g., with a car sales flyer to meet the content issue in this claim.

2. there is no relational database as taught in the instant case in contrast to the disclosure of Miller. This point is deemed irrelevant in that Miller teaches a

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digital template which regardless of additional downstream uses still servers to collect data in categories set forth by the template as does applicant's.

3. Britten et al create a banner instead of a flyer. However, this observation is directed to scale and content issues which do not create patentable distinctions.

Finally, Britten et al. use formatted data fields as shown in figs 1-3. as found in Miller. Whether the fields in Britten et al. are templates or not is a close call, but is answered by Miller which clearly uses such fields. Whether one modifies Britten et al. to use the digital template, or modifies Miller to use the data to print out material in a given format as taught by Britten et al. is deemed obvious. The network recitation only occurs as a functional limitation recited in a "can be" manner which is answered by the capability of either reference being connected to a network.

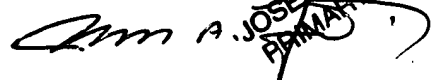
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (571) 272 -6780.

  
JOSEPH A. FISCHETTI  
PRIMARY EXAMINER

Joseph A. Fischetti  
Primary Examiner  
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